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**STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUTIONS
SECURITIES DIVISION**

IN THE MATTER OF DETERMINING
whether there has been a violation
of the Securities Act of Washington by:

STIFEL, NICOLAUS & COMPANY,
INCORPORATED,

Respondent.

Order Number S-10-040-10-CO01

CONSENT ORDER

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INTRODUCTION

WHEREAS, Stifel, Nicolaus & Company, Incorporated (“Stifel”) is a broker-dealer registered in the State of Washington, with its home office at 501 North Broadway St. Louis, Missouri 63106; and

WHEREAS, a multistate task force led by the Enforcement Section of the Securities Division of the Missouri Secretary of State (the "Enforcement Section") conducted an investigation into Stifel’s marketing and sale of auction rate securities to investors during the period January 1, 2006, through February 14, 2008; and

WHEREAS, Stifel has advised the Enforcement Section of its agreement to resolve the multistate task force investigation relating to its marketing and sale of auction rate securities to investors; and

WHEREAS, Stifel elects to permanently waive any right to a hearing and appeal under RCW 21.20.440 and RCW 34.05 with respect to this Administrative Consent Order (the “Order”); and

WHEREAS, Stifel agrees that Stifel is not the prevailing party in this action and Stifel elects to specifically forever release and hold harmless the Securities Division of the

1 Washington State Department of Financial Institutions and its representatives and agents from
2 any and all liability and claims arising out of, pertaining to, or relating to this matter; and

3 WHEREAS, Stifel agrees not to take any action or to make or permit to be made any
4 public statement creating the impression that this Order is without a factual basis. Nothing in
5 this paragraph affects Stifel's: (a) testimonial obligations; (b) right to take legal or factual
6 positions in defense of litigation or in defense of other legal proceedings in which the
7 Securities Division of the Washington State Department of Financial Institutions is not a party;
8 or (c) right to make public statements that are factual;

9 NOW, THEREFORE, the Securities Division of the Washington State Department of
10 Financial Institutions hereby enters this Order.

11 **I.**

12 **FINDINGS OF FACT**

13 1. Stifel admits the jurisdiction of the Securities Division of the Washington State
14 Department of Financial Institutions for purposes of this Order, neither admits nor denies the
15 Findings of Fact and Conclusions of Law contained in this Order, and consents to the entry of
16 this Order by the Securities Division of the Washington State Department of Financial
17 Institutions.

18 2. Auction rate securities are long-term debt or equity instruments that include
19 auction preferred shares of closed-end funds, municipal auction rate bonds, and various asset-
20 backed auction rate bonds (collectively referred to herein as "ARS"), with variable interest
21 rates that reset through a bidding process known as a Dutch auction.

22 3. At a Dutch auction, bidders generally state the number of ARS they wish to
23 purchase and the minimum interest rate they are willing to accept. Bids are ranked, from
24 lowest to highest, according to the minimum interest rate each bidder is willing to accept. The
25 lowest interest rate required to sell all of the ARS at auction, known as the "clearing rate,"
26 becomes the rate paid to all holders of that particular security until the next auction. The

1 process is then repeated, typically every seven, twenty-eight, or thirty-five days.

2 4. While ARS are all long-term instruments, one significant feature of ARS (which
3 historically provided the potential for short-term liquidity) is the interest/dividend reset through
4 periodic auctions. If an auction is successful (i.e., there are enough buyers for every ARS
5 being offered for sale at the auction), investors are able to exit their positions at the auction. If,
6 however, auctions “fail” (i.e., there are not enough buyers for every ARS being offered for
7 sale), investors are required to hold all or some of their ARS until the next successful auction
8 in order to liquidate their funds.

9 5. Beginning in February 2008, the ARS market experienced widespread failed
10 auctions.

11 6. Stifel and its Washington-registered securities agents (“Registered Agents”) sold
12 ARS to Washington residents.

13 7. Stifel’s Registered Agents recommended ARS as safe and/or liquid investments,
14 and compared ARS to cash alternatives, such as certificates of deposit or money market
15 accounts.

16 8. Stifel did not formally train its Registered Agents regarding the risks and features
17 of ARS.

18 9. A number of Registered Agents did not sufficiently understand, and therefore did
19 not adequately communicate to retail purchasers, the risks and features of ARS. As a result, in
20 2008 some Washington retail investors who had purchased ARS from Stifel or its Registered
21 Agents began to submit complaints to Securities Division of the Washington State Department
22 of Financial Institutions regarding these purchases.

23 **Stifel’s Failure to Supervise the Sale of ARS**

24 10. Stifel failed to reasonably supervise its Registered Agents, which is grounds to
25 discipline Stifel under RCW 21.20.110(1)(j). Stifel failed to provide reasonable supervision by
26 failing to provide pertinent information and comprehensive training to its Registered Agents

1 and other sales and marketing staff regarding ARS and the mechanics of the auction process.

2 **II.**

3 **CONCLUSIONS OF LAW**

4 11. The Securities Division of the Washington State Department of Financial
5 Institutions has jurisdiction over this matter pursuant to the Securities Act of Washington,
6 RCW 21.20 (the “Act”).

7 12. The Securities Division of the Washington State Department of Financial
8 Institutions finds Stifel failed to reasonably supervise its Registered Agents in Washington, and
9 that this conduct constitutes grounds to discipline Stifel under RCW 21.20.110(1)(j).

10 13. The Securities Division of the Washington State Department of Financial
11 Institutions finds this Order and the following relief appropriate, in the public interest, and
12 consistent with the purposes intended by the Act.

13 **III.**

14 **ORDER**

15 On the basis of the Findings of Fact, Conclusions of Law, and Stifel’s consent to the entry of
16 this Order,

17 **IT IS HEREBY ORDERED:**

18 1. This Order concludes the investigation by the Securities Division of the
19 Washington State Department of Financial Institutions and any other action that the Securities
20 Division of the Washington State Department of Financial Institutions could commence under
21 applicable Washington law on behalf of Washington as it relates to Stifel, relating to the
22 marketing and sale of auction rate securities. The Securities Division of the Washington State
23 Department of Financial Institutions shall refrain from initiating any action against Stifel based
24 upon or related to the conduct set forth in this order. Specifically excluded from and not covered
25 by this paragraph are any claims by the Securities Division of the Washington State Department
26 of Financial Institutions arising from or relating to the Order provisions contained herein.

1 2. This Order is entered into solely for the purpose of resolving the multistate
2 investigation and is not intended to be used for any other purpose.

3 3. Stifel will CEASE AND DESIST from violating the Act and will comply with the
4 Act.

5 4. In accordance with the Consent Order entered against Stifel by the Missouri Office
6 of the Secretary of State dated January 22, 2010, Case No. Ap-10-05 (“Missouri Order”), Stifel
7 has or will retain, at its expense, an outside consultant (“Consultant”). The scope of Consultant's
8 work is to conduct a review and make written recommendations concerning Stifel’s supervisory
9 and compliance policies and procedures relating to the product review of nonconventional
10 investments and the training, marketing, and sale of nonconventional investments by Stifel and its
11 Registered Agents throughout Stifel's retail branch office system. Stifel will receive a report
12 prepared by the Consultant describing his or her recommendations and Stifel will provide to the
13 Enforcement Section a copy of such report. Stifel shall authorize the Enforcement Section to
14 share these written reports with Securities Division of the Washington State Department of
15 Financial Institutions pursuant to Missouri law, provided that such written reports are given
16 confidential treatment and are treated as nonpublic, nondisclosable records to the extent possible
17 under Washington law.

18 5. For a period of one (1) year following the conclusion of the Consultant’s work,
19 Stifel, and its affiliates may not employ or hire the Consultant in any capacity.

20 6. Stifel shall modify its Voluntary Offer to Repurchase Eligible Auction Rate
21 Securities at Par dated April 9, 2009 (the “Voluntary Offer”) for all Eligible Investors as described
22 in Paragraph 7 below. For purpose of this Order, Eligible Investors shall be defined as investors
23 who hold Eligible Accounts as that term is defined in the Voluntary Offer. Except as modified by
24 this Order, all other terms and conditions of the Voluntary Offer shall remain in full force and
25 effect and shall in no way be modified by this Order.

26 7. Stifel shall accelerate its repurchase of Eligible ARS from Eligible Investors who

1 have accepted the Voluntary Offer as follows:

2 a. January 2010 Repurchase

3 Stifel will repurchase at par up to the greater of twenty-five thousand
4 dollars (\$25,000) of the remaining Eligible ARS holdings or ten percent (10%) of the
5 remaining Eligible ARS holdings plus any accrued and unpaid interest or dividend of
6 such amount no later than January 15, 2010.

7 b. December 2010 Repurchase

8 Stifel will repurchase at par up to the greater of twenty-five thousand
9 dollars (\$25,000) of the remaining Eligible ARS holdings or ten percent (10%) of the
10 remaining Eligible ARS holdings plus any accrued and unpaid interest or dividend of
11 such amount no later than December 31, 2010.

12 c. 2010 Supplemental Repurchase

13 Stifel will repurchase at par all of the Eligible ARS that remain after the
14 December 2010 Repurchase from Eligible Investors who, as of January 1, 2009,
15 maintained in an Eligible Account, Eligible ARS in an amount of one hundred fifty
16 thousand dollars (\$150,000) or less. Such repurchase shall be completed no later than
17 December 31, 2010.

18 d. 2011 Repurchase

19 Stifel will repurchase at par all of the remaining Eligible ARS holdings
20 plus any accrued and unpaid interest. Such repurchase shall be completed no later than
21 December 31, 2011. Stifel will make its Voluntary Offer as modified by this Order to
22 those Eligible Investors who have not previously accepted the Voluntary Offer.

23 8. Subject to applicable regulatory requirements and limitations, Stifel will cooperate
24 with its bank affiliate to use its best efforts to make no-net-cost loans to Eligible Investors,
25 provided such investors have demonstrated need for liquidity.

26 9. In accordance with the Missouri Order, Stifel shall, within fifteen (15) days of the

1 end of each calendar quarter following the execution of the Missouri Order, provide to the
2 Missouri Commissioner of Securities a written report describing and updating, in detail, all
3 repurchase/buyback, issuer redemption and investor arbitration claims related to Eligible ARS that
4 occur or continue to occur. Where applicable and in describing repurchase, redemption and
5 arbitration developments or occurrences, Stifel shall include investor or issuer names and state of
6 residence and amounts of repurchases, redemptions, and/or arbitration claims/awards. Missouri
7 shall be authorized to share these written reports with Securities Division of the Washington
8 State Department of Financial Institutions pursuant to Missouri law, provided that such written
9 reports are given confidential treatment and are treated as nonpublic, nondisclosable records to the
10 extent possible under Washington law.

11 10. Stifel shall pay fines and/or penalties totaling five hundred twenty-five thousand
12 dollars (\$525,000) to the states and other jurisdictions participating in this multistate task force as
13 allocated by the North American Securities Administrators Association to resolve matters relating
14 to Stifel's marketing and sale ARS in those states or other jurisdictions.

15 11. Within ten (10) calendar days following the entry of this Order, Stifel shall pay to
16 the State of Washington the sum of \$1,512.29, which amount constitutes Washington's allocated
17 share of the total settlement payment described in the preceding paragraph.

18 12. If Stifel defaults in any of its obligations set forth in this Order, the Securities
19 Division of the Washington State Department of Financial Institutions may vacate this Order, at
20 its sole discretion, upon ten (10) days notice to Stifel and without opportunity for administrative
21 hearing or may refer this matter for enforcement as provided in RCW 21.20.

22 13. This Order is not intended to indicate that Stifel or any of its affiliates or current or
23 former employees shall be subject to any disqualifications contained in the federal securities law,
24 the rules and regulations there under, the rules and regulations of self-regulatory organizations or
25 various states' securities laws, including any disqualifications from relying upon the registration
26 exemptions or safe harbor provisions. In addition, this Order is not intended to form the basis for

1 any such disqualifications.

2 14. This Order may not be read to indicate that Stifel or any of its affiliates or current or
3 former employees engaged in fraud or violated any federal or state laws, the rules and regulations
4 thereunder, or the rules and regulations of any self regulatory organization.

5 15. For any person or entity not a party to this Order, this Order does not limit or create
6 any private rights or remedies against Stifel including, without limitation, the use of any e-mails or
7 other documents of Stifel or of others for the marketing and sale of auction rate securities to
8 investors, limit or create liability of Stifel, or limit or create defenses of Stifel to any claims.

9 16. This Order shall not disqualify Stifel or any of its affiliates or current or former
10 employees from any business that they are otherwise qualified or licensed to perform under
11 applicable state law, or form the basis for any such disqualification.

12 17. Nothing herein shall preclude the State of Washington, its departments, agencies,
13 boards, commissions, authorities, political subdivisions and corporations (collectively, "State
14 Entities"), other than the Securities Division of the Washington State Department of Financial
15 Institutions and only to the extent set forth in paragraph 1 above, and the officers, agents or
16 employees of State Entities from asserting any claims, causes of action, or applications for
17 compensatory, nominal and/or punitive damages, administrative, civil, criminal, or injunctive
18 relief against Stifel in connection with the marketing and sale of auction rate securities at Stifel.

19 18. Stifel shall pay its own costs and attorneys' fees with respect to this matter.

20 DATED and ENTERED this 26th day of April, 2010.

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23 SUZANNE SARASON
24 Chief of Enforcement

25 Presented by:

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JILL M. VALLELY

Enforcement Attorney

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CONSENT TO ENTRY OF ADMINISTRATIVE ORDER BY STIFEL

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2 Stifel hereby acknowledges that it has been served with a copy of this Administrative
3 Consent Order (“Order”), has read the foregoing Order, is aware of its right to a hearing and
4 appeal in this matter, and has waived the same.

5 Stifel admits the jurisdiction of the Securities Division of the Washington State
6 Department of Financial Institutions; neither admits nor denies the Findings of Fact and
7 Conclusions of Law contained in this Order; and consents to entry of this Order by the Securities
8 Division of the Washington State Department of Financial Institutions as settlement of the
9 issues contained in this Order.

10 Stifel states that no promise of any kind or nature whatsoever was made to it to induce it to
11 enter into this Order and that it has entered into this Order voluntarily.

12 Scott B. McCuaig represents that he/she is President of Stifel,
13 Nicolaus & Company, Incorporated, and that, as such, has been authorized by Stifel, Nicolaus &
14 Company, Incorporated to enter into this Order for and on behalf of Stifel, Nicolaus & Company,
15 Incorporated

16 Stifel agrees that it shall not seek or accept, directly or indirectly, reimbursement or
17 indemnification, including, but not limited to, payment made pursuant to any insurance policy,
18 with regard to any administrative monetary penalty that Stifel shall pay pursuant to this Order.
19 Stifel further agrees that it shall not claim, assert, or apply for a tax deduction or tax credit with
20 regard to any state, federal, or local tax for any administrative monetary penalty that Stifel shall
21 pay pursuant to this Order. Stifel understands and acknowledges that these provisions are not
22 intended to imply that the Securities Division of the Washington State Department of Financial
23 Institutions would agree that any other amounts Stifel shall pay pursuant to this Order may be
24 reimbursed or indemnified (whether pursuant to an insurance policy or otherwise) under
25 applicable law or may be the basis for any tax deduction or tax credit with regard to any state,
26 federal, or local tax.

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Dated this 5th day of April, 2010.

Stifel, Nicolaus & Company, Incorporated

By: /s/ Scott B. McCuaig

Title: President

STATE OF Missouri)

) ss.

City of St. Louis)

SUBSCRIBED AND SWORN TO before me by Scott B. McCuaig, this 5th day of
April, 2010.

/s/ Karen L. Kehrer

Notary Public

My commission expires:

12-3-13